

Fisheries management

Fishing for a language

The experience of the Ngāi Tahu Maori tribe could be a model on how to implement a common language for fisheries management plan

At a certain level, everyone involved in fisheries management would agree that our aim is to manage the fisheries resources sustainably. Divergence on what this means rapidly emerges in any discussion on the term 'sustainability'. The divergence results from the lack of a common language with which to approach fisheries management.

This is not to say there is a lack of fisheries language. On the contrary, the field of fisheries management is renowned for its substantive and often peculiar terminology. Examples of 'resource rents', 'TACS', 'carrying capacity' and 'fishing down' are just a few that readily come to mind. These terms are widely bandied about by those involved in fisheries management. But what do they really mean and how often has the lack of common understanding of the language of fisheries management led to disastrous results for both the fisheries and the people who rely on this natural resource?

This article will briefly clarify some of the language used in the context of customary fisheries management in New Zealand. It will then go on to sketch the path taken by New Zealand in grappling with the language of Māori fisheries, in the context of a rights-based fisheries management system. The bulk of the article will then describe how the Māori tribe, Ngāi Tahu, implemented their customary fisheries management system and how they communicated the language of this system to the rest of New Zealand.

An oft-misunderstood concept is that of property and how it relates to the fisheries resource for indigenous peoples. Implicit in much of the discourse surrounding property rights and fisheries is the idea that the fisheries resource is an asset that

can be owned, divided and transferred. Linked to this presupposition is the idea of the State being the owner of the asset on behalf of the public.

The indigenous people of New Zealand (Māoris) have a different interpretation on the relationship between people and the fisheries resource. It is widely held by Māoris that people do not, and can not, own the fisheries resource; rather, it is the responsibility of people to steward the resource. They have the authority, confirmed by genealogy, to define boundaries, to determine seasons and methods and any other measure to manage the fishing. Thus, the access to the fisheries that Māoris had exercised over generations was a right undertaken in intimate relationship with their responsibilities to look after the resource.

With these beliefs guiding their access and use of the fisheries resource, Māoris were understandably aghast at the action of the State in introducing a Quota Management System (QMS) over the fisheries resources in New Zealand's EEZ.

In response, Māoris then challenged the very presupposition of patrimony being adopted by the State, and launched the successful litigation that then led to the settlement of the Māori fisheries claims.

A basis of the litigation was that the State did not have the patrimonial right to allocate the fisheries resources as an asset. The State did not have this right, as there was a pre-existing relationship of rights and responsibilities held by Māoris for the fisheries resource.

Māori aims

The aim of Māoris, throughout the years of litigation, negotiation and now implementation of fisheries settlement

legislation, is to have sovereignty over their rights and responsibilities — that is, to determine for themselves how to manage their access to the fisheries resource and how best to fulfil their responsibilities in looking after the resource.

Legislation governing fisheries management in New Zealand had, since the late 1800s, made reference to the “Māori fishing right”. The legislative references did not define or articulate what this right was in the context of the fisheries management of the day; rather, the references maintained recognition of the relationship of rights and responsibilities held by Māoris for the fisheries resource.

It was to these legislative references that Māoris turned when faced with the introduction of a QMS in the mid-1980s. The State, by acting on the presupposition that they could allocate the fisheries resource as an asset, had contravened legislation, and directly affected the recognized Māori fishing right.

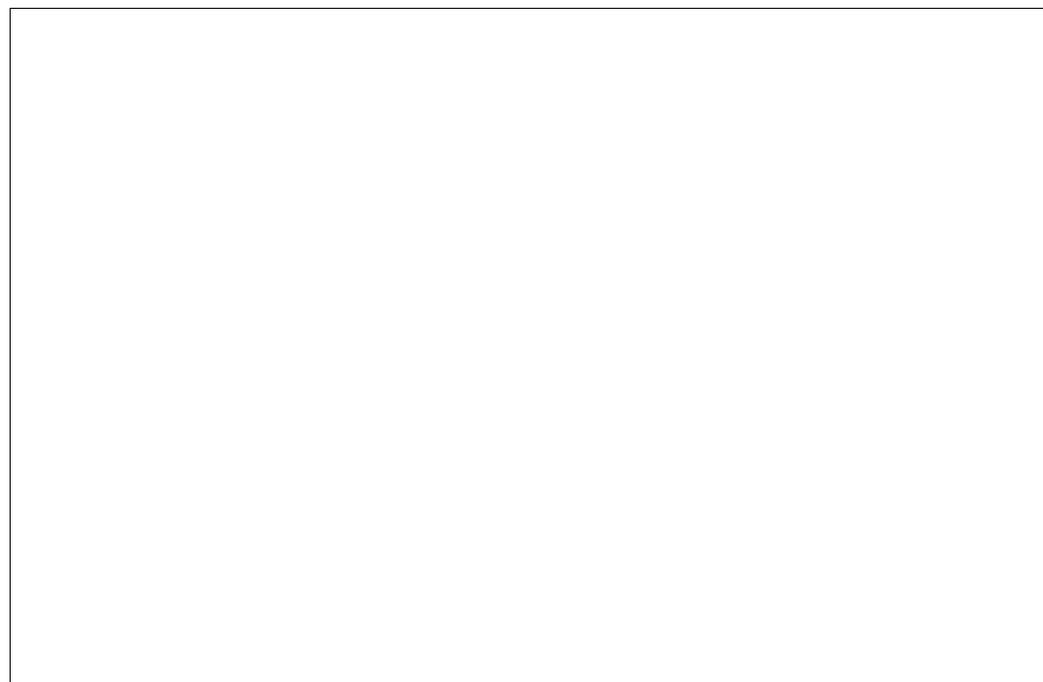
The language understood by the State had run headlong into the language understood by Māoris. Māoris resorted to litigation to put their message across, which resulted in the Court directing the parties, Māoris and the State, to negotiate a way through the impasse. The challenge facing the parties was how to reach a

common language with which the intentions of both parties could be achieved. In more detail, the key question facing the parties was how did the Māori fishing right work in the context of the current fisheries management system in New Zealand? It was at this juncture that a crucial decision was made. The Māori fishing right was separated into commercial and customary non-commercial facets. The commercial aspect of the right could then be aligned with the language of property rights as understood by the State, that is, the fisheries resource could be regarded as an asset. The customary non-commercial aspects of the right would need to be further defined and articulated by legislation to enable a common language and understanding.

With the decision to separate the Māori fishing right in this manner, the path was cleared for subsequent negotiations to proceed, and the two settlements of 1989 and 1992 to be reached. The 1989 legislation was an interim settlement that provided for 10 per cent of quota currently in the QMS and NZ\$10 million in cash to be transferred to Māoris.

Cultural reasons

This legislation also provided for areas to be established that had customarily been of special significance to a tribe as a source of food or for spiritual or cultural reasons. A management committee would then be





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established to give advice to the Minister of Fisheries on how best to manage the fisheries in the area.

The 1992 legislation built on the earlier interim settlement and provided additional assets to Māoris of a 50 per cent share of the fishing company, Sealord Ltd., and guaranteed 20 per cent of the quota of future species to the QMS. Provision was also made for regulations to be established that would confirm the customary non-commercial rights of Māori.

Progress on implementation of the commercial aspect of the fisheries settlements was rapidly undertaken, and, today, Māori interests control (through ownership, lease or pre-emptive right) approximately 57 per cent of the commercial quota in the New Zealand QMS. Final delivery of this control to individual tribes has yet to be completed, with internal discrepancies amongst Māoris as how best to allocate the assets.

Progress on implementation of legislation defining the customary non-commercial aspect of the fisheries settlements was less rapid, and it was six years before legislation was promulgated for customary fisheries in the South Island of New Zealand. In 1998, the Fisheries (South Island Customary Fishing) Regulations were passed. These regulations were soon followed by similar legislation for the North Island of New Zealand.

Ngāi Tahu, the largest Māori tribe in the South Island, which has one of the longest coastlines, is a key player in the management of fisheries in New Zealand. The initiatives that Ngāi Tahu has taken in the last few years with customary fisheries management are, without doubt, vanguard measures for the rest of the world to consider.

It was Ngāi Tahu, along with the eight tribes at the top of the South Island, who initiated a final round of negotiations with the State to agree on a set of regulations governing customary fisheries. The national negotiations had grown stale after years of mismatching language between the State and Māori negotiators. The negotiations between the State and

the tribes of the South Island were, however, successful, and, in 1998, a set of regulations were promulgated. These regulations defined and articulated the customary non-commercial fishing right within the context of the New Zealand fisheries management system.

Regulations alone, however, are not enough to communicate a common language to all people involved in fisheries management. Ngāi Tahu decided to take a strategic approach to the challenge of communicating their understanding and language of customary fisheries management. The underlying philosophy or mission statement for all Ngāi Tahu customary fisheries management is “to secure and develop Ngāi Tahu customary fishing rights within a context of sustainable use of the fisheries resource, empowering Ngāi Tahu whānui to take up their responsibilities in fisheries management”.

Ngāi Tahu then identified six key areas to be their strategic framework for customary fisheries management: organisation; research; information management; education and empowerment; external relations; and compliance and monitoring.

The aim of the customary fisheries organisation is to have in place the necessary legislation, structures, processes and resources to be responsive to the needs of the tribe and to achieve the mission statement. This work area is the foundation for all other work undertaken in customary fisheries management.

A customary fisheries management team was developed within Ngāi Tahu Development Corporation. The team comprises nine staff positions, six of which are funded by contracts of service with the Ministry of Fisheries. The remaining three positions are funded by Ngāi Tahu internal funds. This is a crucial aspect of the robust management structure.

Contracts of service

Without the capability to manage contracts, it is doubtful whether the government department would have entered into the contracts of service. Equally, the ability to attract contracts of

service provides the necessary motivation for continuing internal funding. These contracts are a new way for indigenous people to achieve the outcomes they want.

The key role of the nine-person team is to support the role of Tangata Tiaki. Tangata Tiaki are those people with recognized authority under the customary fishing regulations to manage the customary fisheries.

The aim of the research work component is to establish priorities for research, identify and support key human resources within Ngäi Tahu for undertaking research, and support projects that address Ngäi Tahu research priorities. Ngäi Tahu are well aware that information is influence, and the more information they can hold on the fisheries resource, the better the Tangata Tiaki can manage the resource.

Directly linked to undertaking research for information on fisheries is the ability to hold and manage this information. The aim of the information management component is to establish a user-friendly and secure Geographic Information System (GIS) that will support and inform tribal development in customary fisheries management.

Spatial mapping technology is eminently suitable for the nature of customary fisheries management, with the highly

visual characteristics of GIS appealing to tangata whenua.

Ngäi Tahu commissioned a New Zealand-based GIS company, whose Managing Director is of Ngäi Tahu descent, to design a GIS specifically for the needs of customary fisheries management. The result is a user-friendly system that tracks the activities of the customary fishers, the Tangata Tiaki and any other people connected to the customary fisheries management system. The GIS was designed to be extensible and it is anticipated that, in time, the system will be utilized by other fisheries managers.

The most effective message is one that is well understood. The aim of the work area of education and empowerment is to widely promote the role and function of customary fisheries management, empowering and assisting Mäoris to identify and pursue their aspirations. This area has been a priority of the customary fisheries management system, as it is believed that if people understand the principles and necessity for customary fisheries management, they will support management initiatives.

Sense of ownership

It has been important to encourage a sense of ownership by Mäoris for their customary fisheries. Educate and empower Mäoris first, then broaden the

focus to educate others to support customary fisheries management. In other words, ensure the language is well understood at home and then, together, take it to others to understand.

The initiatives undertaken to spread the common language of customary fisheries management have ranged from production of resources (video, booklet, stickers and T-shirts) to training programmes. A comprehensive two-day training course is available for all the established Tangata Tiaki. The common characteristics of all the initiatives have been their simplicity, creativity and fun. That has allowed the information to be easily understood.

The message of Ngāi Tahu needs continual promotion and discussion to be fully understood as a language of fisheries management. The aim of the external relations component is for Ngāi Tahu to be proactive in developing their external relations, ensuring their strategic objectives are reflected in the work programmes of all fisheries management groups and agencies. In some cases, relationship agreements are developed between the parties as a way of confirming that the common language is understood. Ngāi Tahu has found that strategic alliances with other stakeholders are a path to smoother relations and successful outcomes.

The aim of the compliance component is to encourage voluntary compliance with fisheries laws, and to monitor the effectiveness of customary fisheries management. Ngāi Tahu is well aware that the language of customary fisheries management is constantly evolving. In order to ensure adherence with the current understanding of the language and monitor any changes, Ngāi Tahu took up a compliance contract with the government.

It was a leap of faith for the government and Ngāi Tahu to enter into the compliance contract. Yet it was a leap that has been well rewarded. This contract enabled the employment of the five Kai Arahi, and triggered the formation of the entire customary fisheries team. It has also given visible and tangible proof to all watching that the language of customary

fisheries management can be commonly understood regardless of your cultural background.

It is this proof that makes the example of Ngāi Tahu customary fisheries management a model for others to study and possibly follow. This model demonstrates how a language incomprehensible to many, a language of spiritual beliefs and connections to the natural environment, was interpreted, articulated and defined in such a way that people could understand it. That is not to say that each individual understands the language of customary fisheries management in the same way. After all, every individual reads the world in a unique way that is bound by her/his beliefs. Yet, the language of Ngāi Tahu and customary fisheries management has been communicated well enough for people to understand and support the common intention. ¶

This article is by Miranda Cassidy, fisheries and communications consultant, Amuri, New Zealand (email: mcass@clear.net.nz)

